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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE CEMETERY AND FUNERAL BUREAU**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. A1 2017 397

12 **CLAUDE M. BRYANT**
13 **5031 E. Dana Avenue**
14 **Stockton, CA 95215**

A C C U S A T I O N

15 **Funeral Director License No. FDR 3044**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
21 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
22 Affairs.

23 2. On or about April 10, 2008, the Bureau issued Funeral Director License No. FDR
24 3044 to Claude M. Bryant (Respondent). The Funeral Director License expired on April 30,
25 2017, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118 (b) of the Code provides that the suspension, expiration, or cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period in which the license may be renewed, restored, reissued or reinstated. Under section 7725.5 of the Code, the Bureau can renew a license within five years of its expiration.

5. Section 7686 of the Code provides in pertinent part, that the Bureau may suspend or revoke a license, after proper notice and hearing to the licensee, if the licensee has been found guilty by the Bureau of any of the acts or omissions constituting grounds for disciplinary action.

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the grounds that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

8. Section 7691 of the Code states:

Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

1 9. Section 7692 of the Code states:

2 Misrepresentation or fraud in the conduct of the business or the profession of a
3 funeral director or embalmer constitutes a ground for disciplinary action.

4 10. Section 7709 of the Code states:

5 A plea or verdict of guilty or a conviction following a plea of nolo contendere is
6 deemed to be a conviction within the meaning of this article. The bureau may order
7 the license suspended or revoked, or may decline to issue a license, when the time for
8 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or
9 when an order granting probation is made suspending the imposition of sentence,
10 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
11 Code allowing such person to withdraw his plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
13 or indictment.

14 REGULATORY PROVISIONS

15 11. California Code of Regulations, title 16, section 1252 states:

16 For the purposes of denial, suspension, or revocation of a license pursuant to Division
17 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
18 act shall be considered to be substantially related to the qualifications, functions or
19 duties of a licensed funeral establishment, licensed funeral director, or licensed
20 embalmer if to a substantial degree it evidences present or potential unfitness of a
21 licensed funeral establishment, licensed funeral director, or licensed embalmer to
22 perform the functions authorized by his license in a manner consistent with the public
23 health, safety, or welfare. Such crimes or acts shall include but not be limited to those
24 involving the following:

25 (a) Conviction of a crime involving fiscal dishonesty.

26 (b) Any violation of the provisions of Chapter 12, Division 3 of the Business and
27 Professions Code.

28 COST RECOVERY

1 12. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided
2 by law, in any order issued in resolution of a disciplinary proceeding before any board within the
3 department . . . upon request of the entity bringing the proceeding, the administrative law judge
4 may direct a licensee found to have committed a violation or violations of the licensing act to
5 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

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FIRST CAUSE FOR DISCIPLINE
(Conviction of a Substantially Related Crime)

13. Respondent is subject to disciplinary action under Code sections 490 and 7691 in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed funeral director. The circumstances follow:

a. On October 11, 2017, in a criminal proceeding entitled *The People of the State of California vs. Claude Matthew Bryant* in Stanislaus Superior Court, Case No. 400039, Respondent was convicted on his plea of nolo contendere to a violation of Penal Code section 487 (a) (grand theft), a misdemeanor.

b. The circumstances were that between January 31, 2014 and June 29, 2014, respondent willfully, unlawfully, and feloniously took property of another of a value exceeding \$950. Respondent was paid \$6,692.61 in commissions on fraudulent preneed policies.

SECOND CAUSE FOR DISCIPLINE
(Misrepresentation and/or Fraud in the Conduct of Business)

14. Respondent is subject to disciplinary action under Code section 7692 in that he admitted that he forged the signatures on twelve preneed contracts in order to collect \$6,692.61 in commissions.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking Funeral Director License No. FDR 3044, issued to Claude M. Bryant;
2. Ordering Claude M. Bryant to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: August 27, 2018

Lisa M. Moore

LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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